



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 07892-98

4 November 1999

YN1 [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 28 June 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

**DEPARTMENT OF THE NAVY****NAVY PERSONNEL COMMAND****5720 INTEGRITY DRIVE****MILLINGTON TN 38055-0000**

1610
PERS-311
28 JUN 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: YN1 [REDACTED], USN, [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of a performance report for the period 6 October 1995 to 14 June 1996.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the performance report in question to be on file. The member's statement, along with the command's endorsement is filed next to the report in question. The command endorsement also indicates that the member refused to sign the performance report in question.

b. The member alleges that the performance report in question was presented to him over a month after signing a previous report for the same period. The member states that he was surprised at the declining marks he received in the second report.

c. The member provides with his petition two reports for the period in question. LCDR [REDACTED] Officer in Charge signed the first report, on 14 June 1996, which gave the member a promotion recommendation of "Promotable". LCDR [REDACTED] Officer in Charge signed a second report, on 23 September 1996, which gave the member a promotion recommendation of "Significant Problems".

d. Based on our review of the two reports, it appears that the second report was a correction of the first report to document the member being awarded Non-Judicial Punishment (NJP) during the period in question. The first report was not received by PERS-322; therefore, the second report is a valid report.

e. The marks, comments, and recommendations are at the discretion of the reporting senior, and are not routinely open to

Subj: YN1 [REDACTED]

challenge.

f. The member does not prove the report to be unjust or in error.

3. We recommend retention of the report as written.

[REDACTED]

Head, Performance
Evaluation Branch